

HOUSE BILL 492

P3

6lr1193
CF SB 155

By: **Delegates Saab, Arentz, Grammer, Miele, W. Miller, Morgan, and West**
Introduced and read first time: February 1, 2016
Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Public Bodies – Use and Retention of E-Mail – Requirements**

3 FOR the purpose of prohibiting an employee of a public body from creating or maintaining
4 government e-mail by using a personal e-mail account; requiring an employee of a
5 public body, under certain circumstances, to forward government e-mail to the
6 official e-mail account of the employee within a certain time period; requiring each
7 public body to retain government e-mail for a certain minimum number of years or,
8 under certain circumstances, permanently; requiring the State Archivist to adopt
9 certain regulations; providing for the construction of a certain provision of this Act;
10 defining certain terms; and generally relating to the use and retention of e-mail by
11 public bodies.

12 BY adding to

13 Article – General Provisions

14 Section 4.5–101 through 4.5–103 to be under the new title “Title 4.5. E-Mail Use and
15 Retention”

16 Annotated Code of Maryland

17 (2014 Volume and 2015 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
19 That the Laws of Maryland read as follows:

20 **Article – General Provisions**

21 **TITLE 4.5. E-MAIL USE AND RETENTION.**

22 **4.5–101.**

23 **(A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
24 **INDICATED.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(B) (1) “GOVERNMENT E-MAIL” MEANS ELECTRONIC MAIL, INCLUDING**
2 **METADATA, SENT OR RECEIVED BY A PUBLIC BODY IN ACCORDANCE WITH LAW OR**
3 **IN CONNECTION WITH THE TRANSACTION OF PUBLIC BUSINESS.**

4 **(2) “GOVERNMENT E-MAIL” INCLUDES ELECTRONIC MAIL SENT OR**
5 **RECEIVED BY A PUBLIC BODY THAT:**

6 **(I) CONTAINS EVIDENCE OF THE PUBLIC BODY’S**
7 **ORGANIZATION, FUNCTIONS, POLICIES, DECISIONS, PROCEDURES, OPERATIONS, OR**
8 **OTHER ACTIVITIES; OR**

9 **(II) IS RELEVANT AND USEFUL TO THE EXECUTION AND**
10 **IMPLEMENTATION OF THE ONGOING WORK OF THE PUBLIC BODY.**

11 **(C) “OFFICIAL E-MAIL ACCOUNT” MEANS AN ELECTRONIC MAIL ADDRESS**
12 **AND ACCOMPANYING ACCOUNT ON ANY COMPUTER NETWORK CONFIGURED TO**
13 **SEND ELECTRONIC MAIL, RECEIVE ELECTRONIC MAIL, OR BOTH, THAT IS PROVIDED**
14 **TO AN EMPLOYEE OF A PUBLIC BODY BY THE PUBLIC BODY.**

15 **(D) “PERSONAL E-MAIL ACCOUNT” MEANS AN ELECTRONIC MAIL ADDRESS**
16 **AND ACCOMPANYING ACCOUNT ON ANY COMPUTER NETWORK CONFIGURED TO**
17 **SEND ELECTRONIC MAIL, RECEIVE ELECTRONIC MAIL, OR BOTH, THAT IS NOT**
18 **PROVIDED TO AN EMPLOYEE OF A PUBLIC BODY BY THE PUBLIC BODY.**

19 **(E) “PUBLIC BODY” HAS THE MEANING STATED IN § 3-101 OF THIS ARTICLE.**

20 **4.5-102.**

21 **(A) AN EMPLOYEE OF A PUBLIC BODY MAY NOT CREATE OR MAINTAIN**
22 **GOVERNMENT E-MAIL BY USING A PERSONAL E-MAIL ACCOUNT.**

23 **(B) IF GOVERNMENT E-MAIL IS SENT FROM A THIRD PARTY TO A PERSONAL**
24 **E-MAIL ACCOUNT OF AN EMPLOYEE OF A PUBLIC BODY, THE EMPLOYEE SHALL**
25 **FORWARD THE GOVERNMENT E-MAIL TO THE OFFICIAL E-MAIL ACCOUNT OF THE**
26 **EMPLOYEE WITHIN 5 DAYS AFTER THE GOVERNMENT E-MAIL IS RECEIVED.**

27 **4.5-103.**

28 **(A) THIS SECTION MAY NOT BE CONSTRUED TO AUTHORIZE AN EMPLOYEE**
29 **OF A PUBLIC BODY TO DELETE GOVERNMENT E-MAIL THAT IS:**

1 **(1) REQUIRED TO BE RETAINED LONGER UNDER ANOTHER**
2 **PROVISION OF LAW THAN THE PERIOD REQUIRED UNDER SUBSECTION (B) OF THIS**
3 **SECTION; OR**

4 **(2) THE SUBJECT OF:**

5 **(I) A PUBLIC INFORMATION REQUEST MADE UNDER TITLE 4 OF**
6 **THIS ARTICLE;**

7 **(II) AN OPEN MEETINGS ACT COMPLAINT FILED UNDER § 3-205**
8 **OF THIS ARTICLE;**

9 **(III) A RECORDS RETENTION SCHEDULE; OR**

10 **(IV) ANY OBLIGATION TO PRESERVE RECORDS RELATING TO**
11 **ANTICIPATED OR FILED LITIGATION.**

12 **(B) EACH PUBLIC BODY SHALL RETAIN GOVERNMENT E-MAIL:**

13 **(1) FOR A MINIMUM OF 7 YEARS; OR**

14 **(2) IF THE GOVERNMENT E-MAIL WAS SENT OR RECEIVED BY A**
15 **SENIOR EMPLOYEE OF THE PUBLIC BODY, PERMANENTLY.**

16 **(C) THE STATE ARCHIVIST SHALL ADOPT REGULATIONS GOVERNING**
17 **WHICH EMPLOYEES ARE SENIOR EMPLOYEES FOR THE PURPOSES OF SUBSECTION**
18 **(B) OF THIS SECTION.**

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 2016.